
PUBLIC NOTICE



**US Army Corps
of Engineers**

Omaha District

Application No: RGP 11-02 (2011-02364)

Applicant: General Public

Waterway: Waters of the U.S. in Nebraska and Iowa

Issue Date: December 9, 2011

Expiration Date: January 9, 2012

30 DAY NOTICE

Reply To:

U.S. Army Corps of Engineers, Omaha District

Regulatory Branch

1616 Capitol Avenue

Omaha, Nebraska 68102

JOINT PUBLIC NOTICE: This public notice is issued jointly by the U.S. Army Corps of Engineers (Corps), Omaha District; the Nebraska Department of Environmental Quality (NDEQ), P.O. Box 98922, State House Station, Lincoln, Nebraska 68509; the Iowa Department of Natural Resources (IDNR), 502 East 9th Street, Des Moines, Iowa 50319-0034; and the U.S. Environmental Protection Agency (EPA), Region 7, 901 North 5th Street, Kansas City, Kansas 66101. NDEQ, IDNR, and EPA will review the proposal for certification in accordance with the provisions of Section 401 of the Clean Water Act. NDEQ, IDNR, and EPA hereby incorporate this public notice as their own public notice and procedures by reference thereto.

AUTHORITY: Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) and Section 404 of the Clean Water Act (33 USC 1344).

APPLICANT: General Public.

PROJECT LOCATION: This Regional General Permit (RGP) will authorize work in waters of the United States, including wetlands, associated with flood-related protection, reconstruction and repair activities located in the States of Nebraska and Iowa within the Omaha District's geographic area of jurisdiction. This includes the entire State of Nebraska and the Missouri River and adjacent wetlands in Iowa.

PROJECT DESCRIPTION: In accordance with Title 33 CFR Section 325.2, paragraph (e)(2) and Title 33 CFR Section 325.5, paragraph (c), as published November 13, 1986, in the Federal Register,

Volume 51, Number 219, the Corps, Omaha District proposes to issue a Regional General Permit (RGP) for flood-related activities in the States of Nebraska and Iowa.

The RGP will authorize the following flood protection, reconstruction and repair work in waters of the United States, including wetlands, for flood damaged areas within the States of Nebraska and Iowa.

- (1) Repair and reconstruction of existing roads.
- (2) Construction of temporary roads.
- (3) Construction of temporary levees, dikes and berms.
- (4) Repair of levees including breach closures.
- (5) Protection (e.g. armoring) and/or repair of bridge and linear transportation embankments.
- (6) Protection and/or repair of utility structures.
- (7) Placement of suitable material for bank stabilization.
- (8) Construction of temporary drainage ditches to facilitate the removal of flood water, sheetwater, or excess water.
- (9) Restoration of channels and ditches to pre-flooding alignment and capacity.
- (10) Protection and restoration of intake and outfall structures.
- (11) In-stream disposal of flood-deposited sand/silt material up to 100,000 cubic yards of material per activity. Authorization of in-stream disposal of flood-deposited sand/silt material will be determined on a case-by-case basis. Issues considered will include total and daily amounts of proposed disposal, method of disposal, location of disposal, concurrent disposal activities, time of year and flow rates.

NOTE: Maintenance of existing flood damaged structures and/or flood damaged fills, which have been previously authorized, may be authorized by Nationwide Permit No. 3 or exempted by Part 323.4 of Federal Regulations 33 CFR 320-331. Discharges associated with the emergency removal of sand and gravel bars may also be exempted by Part 323.4. The repair of uplands damaged by storms, floods or other discrete events may be authorized by Nationwide Permit No. 45 upon notification and review by the Nebraska Regulatory Office.

PROJECT PURPOSE: The project purpose is to prevent, minimize, or repair damage resulting from discrete flood, or other natural disaster, events.

REVIEW PROCEDURES. Before an activity can be considered under this RGP, it must conform to the attached application procedures. Any authorization granted under this RGP will be subject to the attached proposed conditions. Any activity the District Commander determines to have more than minimal adverse environmental effects, individually or cumulatively, or would be contrary to the public interest, may require an individual Department of the Army permit.

SPECIAL AQUATIC SITES: The RGP would authorize activities located in special aquatic sites in accordance with the terms and conditions of the permit. Special aquatic sites include sanctuaries and refuges, wetlands, mud flats, vegetated shallows, and riffle and pool complexes.

AVOIDANCE, MINIMIZATION, AND MITIGATION: Impacts to waters of the United States will be avoided to the maximum extent possible and reasonable. Compensatory mitigation will be required on a case-by-case basis as determined necessary by the Nebraska Regulatory Office in accordance with the Corps 2008 Mitigation Rule.

CULTURAL RESOURCES: Activities undertaken pursuant to this RGP will be reviewed individually in accordance with Section 106 of the National Historic Preservation Act. No activity which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places will be authorized until the District Commander has complied with the provisions of 33 CFR Part 325, Appendix C.

ENDANGERED SPECIES: Pursuant to the Endangered Species Act (ESA), projects proposed under this RGP will be evaluated for potential effects on federally protected threatened and/or endangered species and their designated critical habitat on a case-specific basis. If an individual activity proposed for authorization by this RGP may affect a federally protected threatened or endangered species, or may adversely affect designated critical habitat, the Corps will consult with the U.S. Fish and Wildlife Service as required under Section 7 of the ESA prior to authorizing the proposed work to proceed.

WATER QUALITY CERTIFICATION: NDEQ, IDNR and EPA will review the RGP for water quality certification in accordance with the provisions of Section 401 of the Clean Water Act. The certifications, if issued, will express the States' and EPA's opinion that the activities constructed under the RGP will not result in a violation of applicable water quality standards.

SECTION 404(B)(1) GUIDELINES (Guidelines). These Guidelines are the substantive environmental criteria used in evaluating the discharges of dredged or fill material in waters of the United States under Section 404 of the Clean Water Act and are applicable to all Section 404 permit decisions. The purpose of these Guidelines is to restore and maintain the chemical, physical, and biological integrity of United States waters through the control of discharges of dredged or fill material. Fundamental to the Guidelines is an understanding that dredge or fill material should not be discharged into such waters unless it is demonstrated that such discharges would not have unacceptable adverse impacts either individually or in combination with existing and/or probable impacts of other activities affecting the environment.

PUBLIC INTEREST REVIEW: The decision whether to issue the RGP will be based on an evaluation of the probable impacts including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against their reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and

welfare of the people. In addition, the evaluation of the impact of the work on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act (40 C.F.R. Part 230).

COMMENTS: The Corps is soliciting comments from the public, Federal, State, and Local agencies and officials, Indian Tribes and other interested parties in order to consider and evaluate the impacts of this proposal. Any comments received will be considered by the Corps to determine whether to issue the RGP. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the activity.

Anyone whose interests may be affected by the proposal is invited to submit favorable or unfavorable written comments to the U.S. Army Corps of Engineers, Omaha District, Regulatory Branch, 1616 Capitol Avenue, Omaha, Nebraska 68102. All comments received will be considered public information. Comments must be submitted on or before the expiration date (located at the top of the first page) of this notice to be considered in the subsequent actions on this proposal.

PUBLIC HEARING: Before the expiration date of this notice, anyone may request, in writing, that a public hearing be held to consider this proposal. Requests shall specifically state the reason(s) for holding a public hearing. If the District Commander determines that the information received in response to this notice is inadequate for thorough evaluation, a public hearing may be warranted. If a public hearing is warranted, interested parties will be notified of the time, date, and location.

ADDITIONAL INFORMATION: Additional information about this proposal may be obtained by writing to **Ms. Cheryl Goldsberry** at the address shown on page one, or by calling (402) 995-2462. You can also e-mail Ms. Goldsberry at **Cheryl.S.Goldsberry@usace.army.mil**.

REQUEST TO POSTMASTERS: Please post this notice conspicuously and continuously until the expiration date specified at the top of page one.

NOTICE TO EDITORS: This notice is provided as background information for your use in formatting news stories. This notice is not a contract for classified display advertising.

REGIONAL GENERAL PERMIT 11-02

APPLICATION PROCEDURES

All interested parties proposing work under this Regional General Permit are required to contact:

U.S. ARMY CORPS OF ENGINEERS
NEBRASKA REGULATORY OFFICE – WEHRSPANN
8901 SOUTH 154TH STREET, SUITE 1,
OMAHA, NEBRASKA 68138-3621

FAX: 402-896-0997

The following information is required:

1. Name, address, and telephone number of the landowner and the person responsible for the work if other than the landowner.
2. A written description of the proposed work, including the purpose and need; type, composition and volume of fill and/or excavated material; length, width and depth of fill material and/or excavation area; disposal site for the fill and/or excavated material; borrow site for fill material; types of equipment to be used; and impacts to wetlands, streams or other waters of the United States.
3. A written legal description of the project location including section, township, range, and county.
4. Names, addresses, and telephone numbers of adjacent property owners.
5. A set of drawings on 8 1/2 by 11 inch paper, with dimensions of the proposed work, showing:
 - a. The project location identified on an aerial map, including the disposal site locations.
 - b. A plan or top view of the project area.
 - c. A typical cross-section or side view of the project area.
 - d. Photographs of the project area.
 - e. As applicable, a restoration plan showing how all temporary fills and structures will be removed and the area restored to pre-project conditions.
6. Mitigation to offset impacts to wetlands and streams may be required. The Nebraska Regulatory Office will make this determination at the appropriate time.
7. No project may proceed until notification approval has been received from the Nebraska Regulatory Office that the proposal meets the Regional General Permit criteria.

REGIONAL GENERAL PERMIT 11-02

SPECIAL CONDITIONS

Any authorization granted under this Regional General Permit is subject to the following conditions:

1. Upon receiving approval to perform work under this RGP, the permittee will have 180 days to complete the work. If additional time is needed to complete the authorized activity, a written request for a time extension must be submitted to the Nebraska Regulatory Office.
2. This RGP authorizes the discharge of dredged or fill material and other work associated with flood protection measures and restoration, repair or reconstruction measures performed in waters of the U.S. within the States of Nebraska and Iowa as a result of damages caused by flooding. The work will be limited to that authorized by the Corps through the issuance of the RGP. Work associated with restoration, repair or reconstruction will be limited to that necessary to restore damaged areas to pre-flood conditions.
3. No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency (e.g., National Park Service) with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.

The following link provides a map showing the location of the Niobrara National Scenic River:
<http://www.nps.gov/carto/PDF/NIOBmap1.pdf>

The following link provides a map showing the location of the Missouri National Recreational River: <http://www.nps.gov/mnrr/planyourvisit/maps.htm>

The following link provides a map showing the location of the Nebraska rivers listed on the National River Inventory list: <http://www.nps.gov/ncrc/programs/rtca/nri/states/ne.html>

4. All channel restoration work will be limited to restoring the area to pre-flood conditions and verified using U.S. Department of Agriculture, Natural Resource Conservation Service aerial photographs, or other qualifiable data, plans, etc.
5. Repair measures authorized herein do not allow for improved drainage of legally drained wetlands or new, permanent drainages that would result in the lowering of basin water retention capacity and/or impacts to the wildlife value of that wetland.
6. All temporary drainage ditches must be restored to pre-flood conditions within 90 days of the end of the flooding conditions.

7. Repair measures authorized herein are to restore areas to pre-flood conditions. Minor deviations may be authorized.
8. Repair and protection measures authorized herein do not allow for the construction of structures (e.g. jetties) which would result in any further stream channel constriction or in the redirection of flows in such a way as to cause upstream or downstream erosion.
9. Temporary levees, accesses, and other fills must involve the least damaging and minimum amount of disturbance/impacts to waters of the United States. Appropriate measures must be taken to maintain near normal downstream flows to minimize flooding.
10. All sediment disposed of in-stream must be free of large wood or other debris.
11. All fill must be of suitable materials and placed in such a manner that the material will not be eroded by expected high flows.
12. All fill material will be obtained from a non-wetland, upland source.
13. The permittee is responsible for ensuring that the Corps is notified of the location of any borrow site that will be used in conjunction with the construction of the authorized activity so that the Corps may evaluate the site for potential impacts to aquatic resources, historic properties, and endangered species. For projects where there is another lead Federal agency, the permittee shall provide the Corps documentation indicating that the lead Federal agency has complied with the National Historic Preservation Act and Endangered Species Act for the borrow site. The permittee shall not initiate work at the borrow site in conjunction with the authorized activity until approval is received from the Corps.
14. The use of small aggregate, such as streambed material, for bank stabilization and erosion control is prohibited. All erodible fill material associated with bank stabilization must be stabilized.
15. Mitigation plans will be developed in accordance with the 2008 Mitigation Rule and coordinated with the applicable resource agencies on a case-by-case basis.
16. All temporary fills, including sandbags, in waters of the United States must be completely removed and the area restored to pre-flood conditions within 90 days of the end of flooding conditions.
17. Only clean riprap materials will be utilized in order to avoid the percolation of fines that would result in excessive local turbidity.
18. All areas adjacent (contiguous, bordering, neighboring) to jurisdictional waters disturbed by construction shall be revegetated with appropriate perennial native grasses and forbs and maintained in this condition. *Phalaris arundinacea* (Reed Canary Grass), *Lythrum salicaria*

(Purple Loosestrife), *Bromus inermis* (Smooth Brome), *Phragmites, sp.* (Common Reed, River Reed) and *Tamarix, sp.* (Salt Cedar), are *NOT* appropriate choices of vegetation. A cover crop may be planted to aid in the establishment of native vegetation. The disturbed areas shall be reseeded concurrent with the project or immediately upon completion. Revegetation shall be acceptable when ground cover of desirable species reaches 75%. If this seeding cannot be accomplished by September 15 the year of project completion, then an erosion blanket shall be placed on the disturbed areas. The erosion blanket shall remain in place until ground cover of desirable species reaches 75%. If the seeding can be accomplished by September 15, all seeded areas shall be properly mulched to prevent additional erosion. When the vegetation has become established, all temporary erosion control materials shall be removed from the project site. Biodegradable or photodegradable materials need not be removed.

19. For bank protection activities, the riprap revetment shall be covered, from the top of the structure down to the annual ordinary high water line, with a minimum of six inches of soil compacted into the voids of the riprap and immediately seeded with either annual rye grass, oats and/or wheat (nurse crop) plus a mixture of native grass species. The Corps must be notified that this has been completed with photo documentation and seed tags.

20. The clearing of vegetation, including trees located in or immediately adjacent to waters of the United States, will be limited to that which is absolutely necessary for construction of the project.

21. All construction debris will be disposed of on an approved upland site in such a manner that it cannot enter a waterway or wetland. The permittee will establish and carry out a plan for immediate removal of debris during construction in order to prevent the accumulation of unsightly, deleterious and/or potentially polluted materials.

22. Equipment for handling and conveying materials during construction will be operated to prevent dumping or spilling materials into the water except as approved herein.

23. All dredged or excavated materials, with the exception of that authorized herein, will be placed on an upland site above the ordinary high water line in a confined area, not classified as a wetland, to prevent the return of such materials to the waterway.

24. Concrete trucks will be washed at a site and in such a manner that washwater cannot enter the waterway.

25. During construction, no petroleum products, chemicals, or other deleterious materials shall be allowed to enter or be disposed of in such a manner so that they could enter the water and that precautions be taken to prevent entry of these materials into the water.

26. All work in the waterway will be performed in such a manner so as to minimize increases in suspended solids and turbidity that may degrade water quality and damage aquatic life outside the immediate area of operation.

27. All earthwork operations on shore will be carried out in such a manner that sediment runoff and soil erosion to the waterbody are controlled.
28. If and when the District Commander has been notified that a dredging or filling activity is adversely affecting fish or wildlife resources or the harvest thereof and the District Commander subsequently directs remedial measures, the permittee will comply with such directions as may be received to suspend or modify the activity to the extent necessary to mitigate or eliminate the adverse effect as required.
29. The use of machinery in the waterway will be kept to a minimum.
30. A discharge of material may not occur in the proximity of a public water supply unless appropriate approval is given and mitigation measures are identified to offset any adverse effects.
31. If the Corps is notified that work being performed does not comply with, or fall within the scope of, this RGP, the responsible party will take immediate steps, as directed by the Corps, to bring the work into compliance with this permit.
32. If threatened or endangered species are sighted at or near the project site, particularly during construction, work must cease and the Nebraska Regulatory Office and U.S. Fish and Wildlife Service contacted immediately.
33. The permittee, the permittee's contractor or any of the employees, subcontractors or other person working in the performance of the contract shall immediately report the discovery of subsurface features, possible scientific, prehistorical, historical, or archeological data, giving the location and nature of the findings to the State Historic Preservation Officer and the Nebraska Regulatory Office. If discoveries occur on an Indian Reservation, the applicable Tribal Historic Preservation Officer and Nebraska Regulatory Office shall be notified. The permittee shall cease construction or operation at the site of any cultural resource discovery. Work shall not begin until notified by the Nebraska Regulatory Office.
34. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.
35. Modification of any existing Federal navigation structure (e.g., revetment, dike, levee, etc.) is NOT authorized by this RGP.

36. The District Commander may require additional special conditions be included in any authorization issued under this RGP to avoid or minimize adverse environmental impacts. The District Commander may also require the processing of an individual permit for an activity determined to have more than minimal adverse environmental effects, individually or cumulatively, or would be contrary to the public interest.